



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**JOHN L. HILL
ATTORNEY GENERAL**

April 30, 1975

The Honorable Preston L. Poole, Jr.
County Attorney
Courthouse, Box 296
Post, Texas 79356

Opinion No. H- 596

Re: Whether a county may
select the county's only bank
as county depository if the
county judge serves on the
bank's board of directors.

Dear Mr. Poole:

You have requested our opinion concerning whether the only bank in a county may be selected as the county depository where the county judge owns stock in the bank and serves on the board of directors.

Attorney General Opinion C-438 (1965) answered this question in the negative, finding that either membership on the board of directors or stock ownership by the county judge, county attorney, county treasurer, or county clerk would preclude the bank from being selected as the county depository.

However, in 1967 the Legislature enacted article 2529c, V. T. C. S., which provides in part:

Sec. 2. . . .

A bank shall not be disqualified from bidding and becoming the depository for any agency or political subdivision of the state by reason of having one or more officers, directors or stockholders of said bank who individually or collectively own or have a beneficial interest in not more than 10 percent of the bank's outstanding capital stock, and at the same time serves as a member of the

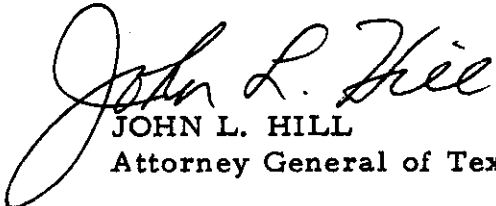
board, commission, or other body charged by law with the duty of selecting the depository of such state agency or political subdivision; provided, however, that said bank must be selected as the depository by a majority vote of the members of the board, commission, or other body of such agency or political subdivision and no member thereof who is an officer, director or stockholder of the bank shall vote or participate in the proceedings. Common-law rules in conflict with the terms and provisions of this Act are hereby modified as herein provided, but this Act shall never be deemed to alter, change, amend or supersede the provisions of any home-rule city charter which is in conflict herewith.

Article 2529c clearly supersedes Attorney General Opinion C-438. Since you have informed us that the county judge owns less than one-half of one percent and no other members of the commissioners court are officers, directors or stockholders of the bank, it may be selected as the county depository pursuant to article 2544, et seq., V. T. C. S. Of course the county judge may not participate in the selection process as he is prohibited from doing so by article 2529c.

SUMMARY

Where the members of the commissioners court do not collectively own more than 10% of the stock of a bank, the court may by majority vote of its members select the bank as the county depository. The interested members of the board may not participate in the vote.

Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman
Opinion Committee

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